



PUBLIC DOCUMENT.

No. 12.

ANNUAL REPORT

OF THE

ATTORNEY-GENERAL

FOR THE

YEAR 1884.

BOSTON :

WRIGHT & POTTER PRINTING CO., STATE PRINTERS.

18 POST OFFICE SQUARE.

1885.

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Commonwealth of Massachusetts.

ATTORNEY GENERAL'S DEPARTMENT, COMMONWEALTH BUILDING,
BOSTON, Jan. 21, 1885.

To the Hon. JOHN Q. A. BRACKETT,
Speaker of the House of Representatives.

Sir: — I have the honor to transmit to you the annual report of this department for the year ending this day.

I am, very respectfully,

Your obedient servant,

EDGAR J. SHERMAN.

Commonwealth of Massachusetts.

ATTORNEY GENERAL'S DEPARTMENT, COMMONWEALTH BUILDING,
BOSTON, Jan. 21, 1885.

To the Honorable Speaker of the House of Representatives :

I have the honor to submit to the general court the annual report required of this department by Public Statutes, chapter 17, section 9.

The whole number of cases in the courts which have required the attention of this department is 143 ; and they are thus classified : —

Indictments for murder,	18
Exceptions and report in criminal cases,	65
Information upon relation of public officers,	30
Information upon relation of private persons,	9
Miscellaneous,	21
Total,	<u>143</u>

I have attended to the disposition of the following cases in the Supreme Judicial Court, in which the prisoners were charged with the crime of murder.

IN THE COUNTY OF ESSEX.

An indictment against Thomas Lowe for the murder by choking of Nellie Sullivan, a child ten years old, at North Andover. The prisoner committed the murder while under the influence of intoxicating liquor. The case was tried at Salem, December 1, 2 and 3, before Morton, C. J., and Charles Allen, J. John P. Sweeney and George L. Weil, Esquires, were assigned and acted as counsel for the prisoner, and District Attorney Hurlbert assisted for the Commonwealth. The defence was insanity, caused by the excessive use of

intoxicating liquor. The jury returned a verdict of guilty of murder in the second degree, and the prisoner was sentenced to the State Prison for life.

IN THE COUNTY OF SUFFOLK.

An indictment against James Nicholson for the murder of his wife, April 22, 1884. Nicholson and his wife had quarrelled and separated, for a second or third time, and were living apart. She, against his will and while he was absent from home, had taken all his household goods of every kind and description and moved to the lodging house kept and occupied by her brother. The prisoner, who was foreman of a shop, and possessed of a respectable character previously, became incensed against her on this account. He increased his habit of using intoxicating liquors, became jealous and moody, brooding over his troubles, and finally, arming himself with a pistol, went to the house on the day of the murder. The wife invited him into the front room to have a private and quiet talk concerning their troubles. After being there a short time he was heard to utter the words, "Take that," and the discharge of a pistol followed. The brother and others rushed in from the adjoining room, and found him standing in the middle of the room, pistol in hand, while she was lying back in the rocking-chair, their baby on her lap, her clothes on fire from the discharge of the pistol in too close proximity to her dress. She exclaimed, "He has killed me at last." The brother put out the fire, told her she was not dead, that her husband had not killed her, although it afterwards appeared that the pistol ball had passed through her arm and glanced into her body. After he became satisfied that he had not killed her, he exclaimed, "If I have not killed you, I will," and put a bullet directly through her heart. She fell to the floor and died instantly. He waited until she was dead, then said, "I am a murderer, and I meant it," passed down stairs, lighted his cigar, walked calmly away, and made his escape. He was arrested in Montreal, in June following, and remarked to the officer, Sergt. Simonds of the Boston police force, "I killed her; I am not dead yet, and I am not afraid to die." He was tried December 15, 16, and 17, before Devens and

Holmes, justices. The defence was drunkenness and insanity. Stillman B. Allen and Owen A. Galvin, Esquires, were assigned and acted as counsel for the prisoner, and District Attorney Stevens assisted for the Commonwealth. The jury returned a verdict of *guilty of murder in the first degree*. December 20, the prisoner was sentenced to be executed March 27, 1885.

IN THE COUNTY OF WORCESTER.

An indictment against Patrick Cuniff for the murder by beating with a club of Patrick McManus. Upon a trial before Justices Field and William Allen, December 30 and 31, a verdict of guilty of murder in the second degree was returned; and the prisoner was sentenced to the State Prison for life. John Hopkins and David F. O'Connell, Esquires, were assigned and acted as counsel for the prisoner, District Attorney Hopkins assisting for the Commonwealth.

The indictments referred to in my report of last year have been disposed of by an entry of a *nolle prosequi*, in each of the following cases, the prisoners having been indicted and tried in the Superior Court for manslaughter; one against James Barrett for the murder by shooting of Richard A. Savage, in the county of Berkshire; and one against Kate Donovan and William Tebbets for the murder of a bastard child, in the county of Hampshire.

In the indictment against Mary Murphy for the murder of her bastard child, pending in Hampden County, at the time of my last report, I accepted a plea of guilty of manslaughter, and she was sentenced to ten years in the Women's Prison.

I also accepted a plea of guilty of murder in the second degree, upon the indictment against Richard Currie, pending in Suffolk at the time of my last report, and he was sentenced to the State Prison for life.

The indictment against Rogers Amero for the murder of Eliza Georgietta Carlton, at Watertown, March 18, 1883, referred to in my last report, was disposed of by the entry of a *nolle prosequi*, and the prisoner was discharged from custody January 26, 1884. After his discharge, Amero petitioned the legislature for compensation, on account of

his arrest, extradition, and imprisonment. The Committee on Claims, after a protracted and patient hearing, reported that the petitioner have leave to withdraw, which report was accepted.

As the petition may be renewed before the present or some future legislature, and as the case against Amero was peculiar, and the circumstances surrounding it were remarkable, I deem it proper to refer to it somewhat at length.

I am indebted to District Attorney William B. Stevens, who visited Nova Scotia, and rendered faithful and valuable services to the Commonwealth and the prisoner there and here, for the following statement :—

The murder of Mrs. Carlton; occurred Sunday evening, March 18th, 1883, at about half past seven. With her two small children she was alone in the house at the time the crime was committed. The family servant, Theodora Carlson, had gone out, and the husband was supposed to be absent in Boston. The mother and children were in her chamber, when the bell of the front door was heard to ring. Taking the light in her hand, leaving the children, and closing the chamber door, she descended to the hall, and what transpired from that moment till her prostrate form was discovered a few minutes later, near the foot of the stairs, by her little daughter five years old, no man except the murderer can exactly say. She went to the outside door, opened it, and from there retreated the length of the hall to the foot of the stairs, pursued by her assassin. This place was the scene of a violent struggle. The weapon used in making the assault was an ordinary stone, afterwards found on the floor besmeared with blood. She was pounded on the head till life was almost extinct, and afterwards her assailant, as if possessed by relentless hate, seems to have jumped upon her outstretched body, perhaps stamping his heel upon her abdomen, producing an effect too horrible for description. From some things it would almost appear that the murderer was wreaking a special vengeance upon a pregnant mother and an unborn child. A necklace, part of an earring, a blank white envelope also discolored with blood, and some articles of personal apparel were scattered about within a few feet of her person. The

blood must have burst from her head in torrents, smirching the walls and penetrating through the carpet and lining to the floor beneath. The first sound which seems to have attracted the little girl, was the moaning of her mother down stairs. Going down, stooping over her, and supposing she was ill, she ran back for some water, and upon returning Mrs. Carlton recovered a momentary semi-consciousness sufficient to send her for help. After giving this last message, she relapsed into unconsciousness, never again uttering an intelligent sentence, except an expression "how strange." Neither lust nor booty appeared to be the motive which caused the crime. About this time a man was seen standing or sitting on the wall opposite the Carlton house. He was probably the murderer, but unfortunately the person who saw him could give no accurate description of him. Opposite where Mrs. Carlton lived, was a large field, where tracks of a man's boots were afterwards discovered, leading in a direction away from the house and towards a road which passed by Mt. Auburn Railroad Station. These tracks were supposed to have been made by the assassin as he was fleeing away in the darkness. One of the first steps taken by the authorities of Watertown, and the relatives of Mrs. Carlton, was the offer of a large reward. This was a mistake, and proved a constant embarrassment to the government, stimulating as it did the imagination, the zeal, and in some instances perhaps the dishonesty of several witnesses whose testimony had to be scrutinized with the greatest care. Various persons were suspected, some arrested and discharged for lack of sufficient evidence, till finally a simple-minded French Acadian named Rogers Amero was arrested in Nova Scotia, indicted, and brought to Massachusetts on a requisition. The suspicious circumstances testified to against him were of the most remarkable character, pointing to him at least, as the probable murderer. At the time there was a general belief among his acquaintances at home and in the neighborhood of the crime that he was the guilty man. The evidence against him, unexplained, and uncontradicted was of the strongest nature, but subsequent developments and a thorough and careful investigation of the facts, demonstrated his probable innocence. The officers of the gov-

ernment exerted themselves, not for the purpose of securing his conviction, but to ascertain so far as possible the exact truth. Officers Bean and Inniss of the District Police were detailed by Governor Butler to work upon the case, and rendered to both the government and the defence valuable assistance.

As this was an exceptional case in the annals of crime it may be interesting to briefly review the evidence against and in favor of the prisoner. Amero was apparently an inoffensive young man of about twenty-four years of age, who for two or three years had worked during the summer, and sometimes in the winter, in and about South Lincoln. In the winter of 1882-83 he had been cutting wood, doing chores, and living in the family of one Arthur Johnson. On the Tuesday morning preceding the murder, he left Mr. Johnson's ostensibly for the purpose of going to Waltham to purchase some clothes, representing that he should return during the day. Instead of returning, however, he drew a deposit which he had at the savings bank in Waltham, met a friend by appointment, went with him to Boston, and in the afternoon took the train for Gloucester to visit some relatives, where he spent the night, and was not seen by them as they testified after Wednesday at or about noon. From this Wednesday afternoon, all trace was lost of him till the following Sunday at about five P.M., when a private detective employed on the Fitchburg Railroad was certain he saw him near the track between Boston and East Cambridge. He positively identified him both from his photograph and from afterwards seeing him personally, and minutely detailed the conversation which ensued. The man whom he saw told him he was going to Watertown where he had frequently walked from Waltham, spoke of a man who kept a bar-room on Cambridge street and had a nice wife. In this connection it should be remembered that Carlton kept a saloon on Cambridge Street. The last seen of him he was walking up the track towards Watertown a little more than two hours before the murder. The crime was committed not far from half-past seven. Shortly before eight, a man under great apparent excitement came into the Mt. Auburn station on the Fitchburg Railroad, bought a

ticket for Boston, and slunk away on a settee as if wishing to escape observation. If this was the murderer who made the tracks heretofore mentioned, he would have taken the proper direction, and would have had just about time to reach the station, at the moment this unknown person appeared there. The daughter of the lady who kept the station was produced as a witness at Digby, and testified that she was positive Amero was the man she saw at the depot on that Sunday night. Her mother and one or two passengers who came in while the man was there were almost equally certain he was the person whom they saw. Two men also came forward, one of whom said he saw the prisoner on Thursday or Friday preceding the murder, in Carlton's saloon, and the other was confident he saw him drinking with Carlton on Friday night, after which they both took the Watertown car. The next clue we have of him, he turns up at Portland at one p. m. Monday, March 19th, having just arrived on the train that left Boston in the morning. He was on his way to his home in Nova Scotia, and after changing cars at Portland, he bought a ticket to Augusta and got on to the right train which would have taken him to Bangor, through which city he must have passed to reach the place of his desired destination. The train had passed but a short distance out of the station, and was in rapid motion, when he jumped from the platform of the car on which he stood. His conduct for the next twenty-four hours was most singular. He was apparently suspicious of every body, giving a name other than his own, making contradictory and false statements about himself and his home, fearful that the police were after him, afraid alike to remain or to go on. In some way on Monday evening, he reached Cumberland Junction, ten miles from Portland, on the Maine Central Railroad, offered to pay the station master, one Fowler, twenty dollars to stop the night train which always did stop there, but Fowler could not persuade Amero that such was the case, and so he hired a man to drive him back to Portland that he might take the train there. While at Cumberland Junction, he appeared to be laboring under the greatest excitement, stating to one person that his getting away was a matter of life and death, and to another, that if

he was caught, it would cost him his life. After being driven to Portland expressly for the purpose of taking the Bangor and St. John train, he for some reason neglected or did not dare to do it, but got on to a freight train the next day, when he exhibited the same fear and suspicion as at Portland. On the road from Brunswick to Bangor he met a person who had lived near him at home, but he tried to disguise his identity from him, assuming a false name, denying that he was Rogers Amero, and seemed anxious to get over the American line, saying that he should then be a free man, that the officers were after him. When he left South Lincoln he wore a mustache which was now shaven off. Trying apparently to conceal himself, he kept most of the time out of sight. Just before the steamer which he took from St. John to Digby reached the landing, he sprung ashore and disappeared up the wharf. After reaching Nova Scotia, till the time of his arrest, his conduct was such as to create among the people he saw the impression, almost the conviction, that he had committed some great crime. Even his own father, a man however of very little intelligence, believed him to be guilty. At first not daring to remain at home, he took to the woods, and hid himself away in a log camp, with a friend, telling him if he was taken he expected to be hung. Most of the witnesses who appeared against him at Digby were probably honest, but their imagination was somewhat excited by the hope of receiving a portion of the thirty-five hundred dollars, inducing them to put an unfavorable and guilty construction upon all his acts. His father stated that he told him he had had trouble with a woman back of Boston, that it was about seven o'clock in the evening, and that the woman's husband at the time was away from home, and after the old gentlemen was lodged in the jail at East Cambridge, where he was detained as a witness, his great solicitation seemed to be, what should be done with the body of his son after the execution, apparently anticipating nothing but the halter as the punishment of his crime. While the defendant was in custody at Digby, and during the hearing there, a fishing smack put in for supplies, and some of her crew, actuated by the prevailing curiosity, went up to the jail, hoping to get a glimpse of the notorious

man, whose name was upon everybody's lips. They succeeded in getting near the outside bars of the window where he was confined and had some conversation with him. The uncle of Amero by marriage, one Saulnier, was near by and overheard the conversation. He testified that he confessed to these fishermen that he got acquainted with Carlton at his saloon, the week before the murder, did chores for him three or four days, went to Carlton's house in Watertown to do an odd job, and that Carlton told him he wished his wife was dead, and some one would kill her, but denied having committed the deed. The father also stated that Rogers would exclaim while in the woods "God have mercy upon my soul," and in reply to the question whether he had killed the woman, said he did not strike her with an axe, but made at the time no further denial.

In brief this was the gist of the evidence against the suspected man, evidence which, if uncontradicted and unexplained, must have carried almost conclusive conviction to every impartial mind that the villain had been finally hunted down who committed the terrible deed. This was one side of the case. The duty now devolved upon the government, as it always does, to find out if there was another side. It was ascertained that a few weeks before he left South Lincoln, he slipped and fell, striking upon the back of his head, and at times from that day till he left for Waltham, he acted strangely, making singular remarks and suspicious that the man with whom he lived was about to have him arrested. He complained of his head, saying it felt curious. A few days before he went away, a neighbor called at Mr. Johnson's and found Amero at work in the barn cellar, wringing his hands and declaring that Johnson had gone off to have him arrested. His conduct before then had generally been kind and inoffensive. He had never manifested anything of the brutality which must have characterized the man who killed Mrs. Carlton. At the outset, the strongest circumstance favoring the innocence of the person who appeared at the Mt. Auburn station, was the fact that no blood was noticed upon his clothes or person, although he was brought into the strongest light. There can be little doubt, that the man who murdered Mrs. Carlton must have been almost

literally covered with her blood. After the arrest of Amero, he told the officer that he had remained at Gloucester till the Monday morning after the murder, detained most of the time in a stable, where his cousin and the owner of the stable succeeded in getting from him a considerable part of his money. His statements at first were somewhat confused and contradictory, and denied by the parties implicated, but a thorough investigation, confirmed in the main, the substantial truth of his story. He was there, and told of certain facts that occurred, and of which he could not have known if he had not been there. These things were brought to light after his return to Massachusetts. In the first place, he gave an accurate description of the interior of the stable, which demonstrated that he had either at some time seen it, or that it had been minutely described to him. He recited a certain transaction that occurred in Gloucester on Friday, March 16. Again on Sunday morning, March 18, he remembered a fire at Rockport, and that his cousin started for the fire; and such was the fact. Further, an old lady who lived opposite the stable, learned from what she overheard, that a man about this time was being kept there, and some of his money had been taken from him. Two or three witnesses also were found who stated that they were positive they saw him at Gloucester on Saturday, March 17. One of them probably intended to tell the truth, but the others were very unreliable. The cousin also told the master of a coaster sailing between Gloucester and Nova Scotia, that Rogers was in the former place as he claimed, and that he got money from him. The evidence is here very briefly given, but it was proven at least beyond probable doubt, that the suspected man was in Gloucester from the preceding Wednesday till the following Sunday morning, March 18, instead of having been at Carlton's saloon and at Watertown. He was at Gloucester Sunday morning. Could he have been on the Fitchburg Railroad in Boston Sunday afternoon at five o'clock, or at Watertown two hours later? It is within the range of possibility and that is all. Insanity had very generally prevailed in the family of Amero, and it was evident that he had started from South Lincoln, possessed with the delusion that he had had trouble with Mrs.

Johnson, his employer's wife. This delusion probably manifested itself at Gloucester, and may have been taken advantage of by the people he met there, who, perhaps, played upon his fears, and so induced him to part with his money, keeping him concealed in the barn as he claimed. His statement was that he left Gloucester on the Monday morning after the murder and took the train for Portland, at one time he said at Salem, and at another time he said at Beverly. The conductor and a brakeman of the train that left Boston on that Monday morning were sought out. The conductor remembered the fact of a man getting on the train he thought at Salem, and also remembered certain circumstances in connection with him, which had been detailed previously by Amero. The brakeman also recalled the facts, having conversed with him, and furthermore, went to the prisoner's cell at the jail in East Cambridge, and identified him as the man he saw. Step by step his route was traced; the people he met were interviewed, and the conclusion reached from his conduct and his words, that the delusion which took possession of him at South Lincoln, had followed him till the time of his arrest. This hypothesis explained his apparent confessions. They referred not to Mrs. Carlton, but to Mrs. Johnson. The place back of Boston testified to by his father was South Lincoln, and not Watertown. The lady with whom he had had trouble was his employer's wife, and not the murdered woman. He had either committed a great crime, or was the victim of an hallucination. The latter theory alone was consistent with proven facts, and so was accepted. But some of the witnesses drew upon their imagination to such an extent, that they may have been guilty of perjury. The evidence that came from the uncle-in-law had been of the most damaging character, but his reputation for truth was bad, and the only one of the fishermen who could be found absolutely contradicted him about the confession. Furthermore, the appearance and the character of the two men who placed him with Carlton was such as to entitle their testimony to but little weight. It is more difficult to explain the evidence of the Fitchburg Railroad detective and of the ladies who kept the Mt. Auburn station. At the time the detective saw the man

on the track, another employé of the road also saw him, and supposed he was a mulatto, and he was afterwards unable to identify Amero. The overcoat which he was described as wearing, was also different from any that Rogers was known to have had. This man, too, had a pipe, but the Frenchman never smoked. After several interviews with him during his confinement here, it was difficult to come to any other conclusion than that his mind was either affected, or that he was very artfully assuming insanity, but there was little about his previous life and character which would justify the latter conclusion. Such, in brief, was the evidence for and against this unfortunate, and at the same time, fortunate man.

If Amero had been tried immediately upon his extradition, he might have been in danger of conviction. His own conduct, caused possibly by insanity, led to his arrest, indictment and extradition. The offer of reward interfered with and impeded investigation, and made it more difficult to establish the truth.

The evidence, at first developed, fully justified the indictment and extradition. Subsequent patient, faithful, intelligent and searching investigation, by the government, aided by officers appointed by the Governor and the court, caused Amero to be discharged without trial, upon the ground, — although there was much and strong evidence against him yet after it was examined, sifted, and explained, — that he probably was not guilty.

I renew my recommendation of last year as follows : —

REWARDS FOR APPREHENDING OFFENDERS.

The offer of a reward in this Commonwealth, during the past year, for the purpose of securing the arrest and conviction of the person who committed a capital crime, has worked great mischief, causing a large expenditure of money and misdirection of effort, if not utter failure in the detection of the murderer.

I am convinced, after years of experience in the prosecution of criminals, and upon reflection and careful consideration, that any offer of reward for the apprehension of offenders is a great hindrance to the arrest and conviction of

criminals, and a serious obstacle to public justice. I therefore recommend the repeal of section 12 of chapter 212 of the Public Statutes.

A case of unusual interest to the public, concerning the liability of physicians for malpractice, occurred in Worcester County and has been decided during the year.

In the case of *Commonwealth v. Samuel Thompson* decided in Essex County by the Supreme Court in 1899 (6 Mass. R. 134) it was held that a physician who had administered *lobelia*, from the effects of which the patient died, could not be convicted of manslaughter, notwithstanding his ignorance, if he acted *with an honest intention and expectation of curing the deceased*. Although that opinion has generally been followed by the courts in this and most of the States of the Union, yet it has been unsatisfactory to the bench and bar, and a different rule has been adopted and followed in England.

The case in Worcester was an indictment against Franklin Pierce, a physician, who, while attending a patient ill of fever, caused her to be kept in flannels saturated with kerosene oil until she died.

He was indicted and tried for manslaughter before Mr. Justice Pitman of the Superior Court who ruled to the jury, "that injurious acts resulting from gross carelessness or foolhardy presumption, without intent to injure, may constitute an assault." The court instanced those persons who are engaged in operating steam engines and said "if they were guilty of gross carelessness or foolhardy presumption and injuries result they are criminally liable. So with apothecaries, if a person without knowledge and skill deals with deadly drugs, he may be criminally liable. Whenever men are called upon to act with dangerous agencies, the law holds them to some degree of criminal responsibility. If they are grossly careless, or reckless and presumptuous, they are guilty. The same principle applies to medical treatment. The government must show not merely the absence of ordinary care but gross carelessness amounting to recklessness. A man is not to be convicted of manslaughter merely because of his ignorance. His ignorance

is only important as bearing upon the question whether his conduct in the case and treatment of the patient was marked by foolhardy presumption or gross and reckless carelessness.

“The defendant in this case is to be tried by no other or higher standard of skill or learning than that which he necessarily assumed in treating her: that is, that he was able to do so without gross recklessness or foolhardy presumption in undertaking it. It is not necessary to show evil intent; if by gross and reckless negligence he caused the death, he is guilty of culpable homicide. The question is whether the kerosene (if it was the cause of the death), either in its original application, renewal or continuance, was applied as the result of foolhardy presumption or gross negligence on the part of the defendant.”

Exceptions were taken to these rulings to the Supreme Judicial Court, and the same were argued before the full court in September last at Worcester, Frank P. Goulding, Esq., representing the defendant.

Mr. Justice Holmes has since delivered the opinion of the court, fully sustaining the ruling of the court below.

William Washburn made a claim against the Commonwealth, by petition to the Superior Court, as provided in chapter 195 of the Public Statutes, to recover compensation for his services as architect at the request of the joint standing committee on the State House. At the trial before Judges Gardner, Staples and Blodgett, no special authority for the employment of the petitioner was shown except such as follows from the provisions of section 13 of chapter 5 of the Public Statutes, and at the request of the Attorney-General the court ruled that this section does not empower the committee to contract debts binding upon the Commonwealth. To this ruling the petitioner excepted, but the Supreme Judicial Court overruled the exceptions and decided the case in favor of the Commonwealth.

In obedience to the resolve of the last Legislature, chapter 61, I have commenced bills in equity against the Boston and Albany Railroad Company, in the Supreme Judicial Court in Suffolk County, the same have been heard before one of

the Justices, and undoubtedly will be reserved and reported to the full court, to be argued at the March term thereof.

The following indictments for murder are now pending :

One against Samuel J. Allen in Boston, for the murder by shooting of Edwin A. Hansell, May 22, 1884 ; and one against Edward J. Moran, of Holyoke, in the County of Hampden, for the murder by shooting of his wife, Janet Moran, May 19, 1884.

I annex details of the work of the department, with tables.

Frederic J. Stimson, Esq., was appointed and acted as assistant attorney-general during the illness and absence of Assistant Attorney-General Shepard. Both have rendered faithful service and have received the commendation of the department.

EDGAR J. SHERMAN,
Attorney General.

TABLE

Showing the Number of Criminal Cases pending on Questions of Law in the Supreme Judicial Court during the Year ending Jan. 21, 1885, and the Disposition thereof by Counties.

COUNTIES.	Cases pending.	Decided for the Commonwealth.	Decided against the Commonwealth.	Argued, but not decided.	Not yet argued.
Barnstable,	2	2	-	-	-
Bristol,	6	5	1	-	-
Dukes,	1	1	-	-	-
Essex,	2	2	-	-	-
Franklin,	1	-	1	-	-
Hampden,	3	2	1	-	-
Hampshire,	1	1	-	-	-
Middlesex,	16	8	-	7	1
Norfolk,	6	2	1	3	-
Plymouth,	1	-	-	1	-
Suffolk,	19	16	-	1	2
Worcester,	7	3	1	3	-
Totals,	65	42	5	15	3

TABLE

Showing the Number and Character of Criminal Cases pending on Questions of Law in the Supreme Judicial Court during the Year ending Jan. 21, 1885, and the Disposition thereof.

OFFENCES.	Cases pending.	Decided for the Commonwealth.	Decided against the Commonwealth.	Argued, but not decided.	Not yet argued.
Assault,	1	—	—	1	—
Attempt to extort money,	1	1	—	—	—
Attempt to destroy building by dynamite,	1	1	—	—	—
Breaking and entering,	1	1	—	—	—
Burning a building in night time,	1	1	—	—	—
Conveying incumbered real estate,	1	—	1	—	—
Embezzlement,	1	1	—	—	—
False registration,	1	—	—	1	—
Forgery,	3	2	—	—	1
House of ill-fame,	1	1	—	—	—
Illegal fishing,	1	1	—	—	—
Larceny,	3	2	—	1	—
Libel,	1	1	—	—	—
Liquor, illegal keeping of,	7	4	1	1	1
Liquor, illegal sale of,	8	4	—	4	—
Liquor nuisance,	18	12	2	4	—
Lottery,	1	1	—	—	—
Manslaughter,	1	1	—	—	—
Neglect to support child,	1	1	—	—	—
Night walker,	1	1	—	—	—
Nuisance,	3	1	1	1	—
Possession of burglar's tools,	1	1	—	—	—
Selling adulterated milk,	5	3	—	1	1
Soliciting to burn a barn,	1	—	—	1	—
Violation of municipal ordinance,	1	1	—	—	—
Totals,	65	42	5	15	3

CASES

Argued and conducted by the Attorney-General, during the year ending Jan. 21, 1885.

COUNTY OF BARNSTABLE.

Commonwealth *v.* Charles H. Marriman. S. J. C. *Unlawfully digging oysters.* Exceptions S. C. Overruled.

Commonwealth *v.* Sarah Ryan. S. J. C. *Illegal sale and keeping of intoxicating liquors.* Exceptions S. C. Overruled.

COUNTY OF BERKSHIRE.

Commonwealth *v.* James Barrett. S. J. C. *Murder. Nolle prosequi* because of trial for manslaughter in Superior Court.

COUNTY OF BRISTOL.

Commonwealth *v.* Edward McDonald. S. J. C. *Sale of liquor to minor.* Exceptions S. C. Waived.

Commonwealth *v.* Thomas Dugan. S. J. C. *Breaking and entering and larceny.* Exceptions S. C. Overruled.

Commonwealth *v.* Martin Bartley. S. J. C. *Aiding in maintaining a common nuisance.* Exceptions S. C. Sustained.

County of Bristol *v.* Franklin Gray. S. J. C. *Travelling expenses of County Commissioners.* Appeal S. C. Argued but not decided.

Commonwealth *v.* James Farrell. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Commonwealth *v.* Edward B. Thomas. S. J. C. *Keeping a disorderly house.* Exceptions S. C. Waived.

Commonwealth *v.* Daniel Green *et al.* S. J. C. *Suit on recognition.* Exceptions S. C. Overruled.

COUNTY OF DUKES COUNTY.

Commonwealth *v.* David B. Pease *et al.* S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

COUNTY OF ESSEX.

Commonwealth *v.* William Russell. S. J. C. *Murder.* Defendant committed to the Taunton Lunatic Asylum to await the further order of the Court.

Commonwealth *v.* Thomas Lowe. S. J. C. *Murder.* Guilty of murder in the second degree and sentenced to State Prison for life.

Commonwealth *v.* George Day and Frederick P. Gray. S. J. C. *Possession of burglarious tools.* Exceptions S. C. Overruled.

Commonwealth *v.* William Hayes. S. J. C. *Attempt to destroy a building by dynamite.* Exceptions S. C. Overruled.

COUNTY OF FRANKLIN.

Commonwealth *v.* Erastus W. Brayman. S. J. C. *Conveying incumbered real estate.* Exceptions S. C. Sustained.

Petition of Caleb Mayo and others, members of the Orange Sovereigns of Industry Co-operative Co., for dissolution. S. J. C. Dissolution decreed.

COUNTY OF HAMPDEN.

Commonwealth *v.* John Kemmler. S. J. C. *Murder.* Defendant in Worcester Hospital.

Commonwealth *v.* Edward J. Moran. S. J. C. *Murder.* Pending.

Commonwealth *v.* Mary Murphy. S. J. C. *Murder.* Plea of guilty of manslaughter accepted.

Commonwealth *v.* John Flannigan. S. J. C. *Overdriving a horse.* Exceptions S. C. Overruled.

Commonwealth *v.* John Hart. S. J. C. *Illegal sale of liquors.* Exceptions S. C. Waived.

Commonwealth *v.* William Pomphret. S. J. C. *Liquor nuisance.* Exceptions S. C. Sustained.

COUNTY OF HAMPSHIRE.

Commonwealth *v.* Benjamin Eastman. S. J. C. *Murder.* Defendant in Worcester Hospital.

Commonwealth *v.* Kate Donovan and William Tebbets. S. J. C. *Murder. Nolle prosequi* because of trial for manslaughter in Superior Court.

Commonwealth *v.* Orville M. Brailey. S. J. C. *Burning a building in the night time.* Exceptions S. C. Overruled.

COUNTY OF MIDDLESEX.

Commonwealth *v.* Rogers Amero. S. J. C. *Murder. Nolle prosequi* and defendant discharged.

Commonwealth *v.* Joseph Sullivan. S. J. C. *Murder.* Defendant in Taunton Lunatic Hospital.

Commonwealth *v.* Mortimer Johnson and Sarah A. Johnson. S. J. C. *Murder.* Mortimer escaped from prison and is at large. Sarah released on her own recognizance.

Commonwealth *v.* Burkner F. Burlington. S. J. C. *Neglect to support a minor child.* Exceptions S. C. Overruled.

Commonwealth *v.* Nathan P. Pratt. S. J. C. *Embezzlement.* Exceptions S. C. Overruled.

Commonwealth *v.* Thomas P. Merriam. S. J. C. *Illegal sale of intoxicating liquors.* Exceptions S. C. Overruled.

John Q. Atkins *v.* Commonwealth. S. J. C. *Illegal keeping of intoxicating liquors.* Appeal. Overruled.

Commonwealth *v.* Thomas Salmon. S. J. C. *Illegal keeping of intoxicating liquors.* Exceptions S. C. Overruled.

Commonwealth *v.* Timothy F. Buckley. S. J. C. *Illegal keeping of intoxicating liquors.* Exceptions S. C. Waived.

Leander A. Persons and John Whiteley, Deacons of United Society of Protestant Christians, *v.* Attorney-General. S. J. C. *Construction of a trust.* Decree in favor of plaintiffs.

Commonwealth *v.* Joseph Uhig. S. J. C. *Common nuisance.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* James Barnes. S. J. C. *Tenement for illegal sale of liquors.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Eugene J. Sullivan. S. J. C. *Same cause.* Exceptions S. C. Overruled.

Commonwealth *v.* Charles Sinclair. S. J. C. *Sale of liquor to a minor.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Joshua E. Towle. S. J. C. *Sale of liquor on Sunday.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Winfield H. Tabor. S. J. C. *Illegal sale of liquor.* Exceptions S. C. Overruled.

Commonwealth *v.* Robert Patterson. S. J. C. *Illegal sale of liquor.* Exceptions S. C. Sustained.

Commonwealth *v.* John Lynch. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Petition for dissolution of Saint Mary's Orphanage. S. J. C. Not yet heard.

Commonwealth *v.* Owen Murray. S. J. C. *Liquor nuisance.* Exceptions S. C. Not yet heard.

Commonwealth *v.* Charles Jacobs *et al.* S. C. J. *Keeping for sale liquors with intent to sell them illegally.* Exceptions S. C. Not yet heard.

COUNTY OF NORFOLK.

Commonwealth *v.* Dennis Carney. S. J. C. *Murder.* Defendant in Stoughton Almshouse.

Commonwealth *v.* David Scannel. S. J. C. *Murder.* Defendant in Taunton Hospital.

Commonwealth *v.* Henry W. Burgett. S. J. C. *Illegal sale of intoxicating liquors.* Exceptions S. C. Overruled.

Commonwealth *v.* Wilmot F. Fisher. S. J. C. *Illegal keeping of intoxicating liquors.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Certain Intoxicating Liquors, Wilmot F. Fisher, claimant. S. J. C. *Same complaint.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Seth Reckards. S. J. C. *Liquor nuisance.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Jacob Cotton. S. J. C. *Illegal keeping of intoxicating liquors.* Exceptions S. C. Sustained.

Commonwealth *v.* Henry S. Coolidge. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Commonwealth *v.* Oliver H. Perry. S. J. C. *Nuisance.* Exceptions S. C. Not yet heard.

COUNTY OF PLYMOUTH.

Commonwealth *v.* William J. Foley and Thomas F. Slattery. S. J. C. *Assault with dangerous weapon.* Exceptions S. C. Argued, but not decided.

COUNTY OF SUFFOLK.

Commonwealth *v.* Richard Curry. S. J. C. *Murder.* Plea of guilty of murder in second degree accepted.

Commonwealth *v.* Thomas Brennan. S. J. C. *Murder.* Defendant escaped from Taunton Lunatic Hospital, April 30, 1880.

George W. Meserve *in error v. Commonwealth*. S. J. C. *Forgery*. Overruled.

Eugene B. Hinckley *v. Susan B. Thatcher et al.* S. J. C. *Construction of a will*. Not yet heard.

Francis J. Stratton *et al. v. Attorney-General*. S. J. C. *Charitable Trust*. Not yet heard.

Commonwealth *v. J. O. Wetherbee et al.* S. C. *Suit for penalty for not making returns*. Not yet tried.

Commonwealth, by Board of Commissioners of Savings Banks, *v. North Bridgewater Savings Bank*. Same *v. Mechanics' Savings Bank*. Same *v. Sandwich Savings Bank*. Same *v. Barnstable Savings Bank*. Same *v. West Boston Savings Bank*. Same *v. Mercantile Savings Institution*. Same *v. Rockport Savings Bank*. Same *v. Lexington Savings Bank*. Same *v. Needham Savings Bank*. Same *v. Reading Savings Bank*. Same *v. Scituate Savings Bank*. S. J. C. *Petitions for injunctions and winding up of affairs*. Affairs in the hands of receivers.

Commonwealth, by Insurance Commissioner, *v. N. E. Marine Insurance Company*. Same *v. Conway Mutual Fire Insurance Company*. S. J. C. *Petitions for injunctions and winding up of affairs*. Affairs in hands of receivers.

Commonwealth, by Deputy Insurance Commissioner, *v. Exchange Insurance Company*. Same *v. Boston Insurance Company*. Same *v. Manufacturers' Insurance Company*. Same *v. Howard Fire Insurance Company*. Same *v. Shoe and Leather Dealers' Insurance Company*. Same *v. Franklin Insurance Company*. Same *v. Washington Insurance Company*. Same *v. Neptune Insurance Company*. S. J. C. *Petitions for injunctions and winding up of affairs*. Affairs in the hands of receivers.

Attorney-General *ex rel. Treasurer v. Benson Patent Manufacturing Company*. S. J. C. *Information for taxes*. Perpetual injunction issued, and execution for taxes due.

Attorney-General *v. Proprietors of Rowe's Wharf*. S. J. C. *Information for an injunction*. Not yet heard.

Alfred F. Bacon *et al. v. Chandler B. Ransom et al.* S. J. C. *Charitable Trust*. Not yet heard.

Roland G. Usher, Warden, *v. Ira Blanchard et al.* Same *v. Prusha Rubber Clothing Company*. S. C. *Contracts*. Pending.

North American Insurance Company *v. Commonwealth*. Springfield Fire and Marine Insurance Company *v. Same*. Boylston Mutual Insurance Company *v. Same*. Holyoke Mutual Fire Insurance Company *v. Same*. Massachusetts Mutual Fire Insurance Company *v. Same*. Washington Fire and Marine Insurance Company *v. Same*. Shoe and Leather Insurance Company *v. Same*.

Manufacturers' Fire and Marine Insurance Company *v.* Same. Mercantile Fire and Marine Insurance Company *v.* Same. Gloucester Fire Insurance Company *v.* Same. Dwelling House Insurance Company *v.* Same. Fireman's Fire Insurance Company *v.* Same. First National Fire Insurance Company *v.* Same. Eliot Insurance Company *v.* Same. S. J. C. *Petitions for abatement of taxes.* Decree in favor of petitioners.

William Washburn *v.* Commonwealth. S. J. C. *Petition for compensation as architect at the State House.* Exceptions S. C. Overruled.

Attorney-General *ex rel.* Treasurer, *v.* Warner File Company. S. J. C. *Information for not making returns.* Pending.

In re Palestine Railroad. S. J. C. *Petition for dissolution.* Pending.

In re Estate of William Hale. Probate Court. *Claim of next of kin.* Pending.

Compagnie de Reassurances Generales *v.* Commonwealth *et al.* S. J. C. *Petition for securities in custody of Treasurer.* Granted.

Commonwealth *v.* Jennie Holmes. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Commonwealth *v.* Annie Doherty. S. J. C. *Same.* Exceptions S. C. Overruled.

Commonwealth *v.* Delia Hart. S. J. C. *Same.* Exceptions S. C. Overruled.

Commonwealth *v.* Edmund Bacon. S. J. C. *Attempt to extort money.* Exceptions S. C. Overruled.

Commonwealth *v.* Sarah Sherman. S. J. C. *Common night-walker.* Exceptions S. C. Waived.

Commonwealth *v.* James F. Collins. S. J. C. *Larceny from the person.* Exceptions S. C. Overruled.

Commonwealth *v.* Luther Wright. S. J. C. *Lottery.* Exceptions S. C. Overruled.

Commonwealth *v.* Samuel J. Allen, Jr. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* James Nicholson. S. J. C. *Murder.* Defendant tried and convicted of murder in first degree, and sentenced to be hung.

Commonwealth *v.* Emma Smith. S. J. C. *House of ill-fame.* Appealed. S. C. Judgment on the verdict.

Commonwealth *v.* Charles M. Parsons. S. J. C. *Forgery.* Exceptions S. C. Overruled.

Commonwealth *v.* John P. Kane. S. J. C. *Intent to sell adulterated milk.* Exceptions S. C. Waived.

Commonwealth v. Hugh J. McGuirk. S. J. C. *Liquor nuisance.* Exceptions S. C. Waived.

Commonwealth v. Edward W. Favor. S. J. C. *Sale of adulterated milk.* Exceptions S. C. Waived.

Commonwealth v. James Jenks *et al.* S. J. C. *Larceny.* Exceptions S. C. Overruled.

Commonwealth v. Terence Cavanagh. S. J. C. *Possession of adulterated milk.* Exceptions S. C. Waived.

Cutter v. Home Mission Society of the First Baptist Society of Boston. Probate C. *Petition that a certain legacy be declared void.* Granted.

Attorney-General *ex rel.* Harbor and Land Commissioners v. Henry Bigelow Williams. S. J. C. *Petition to restrain defendant from building bay windows over passageway.* Not yet heard.

City of Boston v. Attorney-General. S. J. C. *Petition for leave to sell land in Dorchester.* Granted.

Commonwealth, by Board of Commissioners of Savings Banks v. Hyannis Savings Bank. S. J. C. *Application of receivers for discharge.* Refused.

P. J. Flatley v. Oreb F. Mitchell and Daniel A. Gleason as Treasurer. *Trustee.* Municipal Court of Boston. *Trustee discharged.*

Commissioner of Corporations v. New England Lithographic Company. S. J. C. *Petition for dissolution for want of returns.* Granted.

Same v. Boston Waterproof Fabric Company. S. J. C. *Same cause.* Granted.

Commonwealth v. Boston & Albany Railroad Company. *Information to restrain the payment of dividends.* Argued, but not decided.

Same v. Same. S. J. C. *Information to restrain the issue of 6,527 shares.* Argued, but not decided.

Commonwealth, by Commissioner of Corporations, v. The Parker Mills. S. J. C. *Petition for dissolution for want of returns.* Pending.

Commonwealth v. Obed B. Baker. S. J. C. *Sale of adulterated milk.* Exceptions S. C. Waived.

Leander Bushman, *in error* v. Commonwealth. S. J. C. Not yet heard.

Commonwealth v. Isaac S. Levy. S. J. C. *Forgery.* Exceptions S. C. Not yet heard.

Commonwealth v. John Keenan. S. J. C. *Sale of adulterated milk.* Exceptions S. C. Not yet heard.

COUNTY OF WORCESTER.

Commonwealth by Insurance Commissioner *v.* Lancaster Savings Bank. S. J. C. *Petition for an injunction and to wind up affairs.* In hands of Receivers.

Commonwealth *v.* James P. Forristall. S. J. C. *Larceny.* Exceptions S. C. Overruled.

Commonwealth *v.* John E. Flagg. S. J. C. *Soliciting another to burn a barn.* Exceptions S. C. Overruled.

Commonwealth *v.* Franklin Pierce. S. J. C. *Manslaughter.* Exceptions S. C. Overruled.

Commonwealth *v.* Patrick F. Heagany. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Commonwealth *v.* Abbott A. Jenkins. S. J. C. *Liquor nuisance.* Exceptions S. C. Sustained.

Commonwealth *v.* Maurice W. Hennigan. S. J. C. *False registration.* Exceptions S. C. Argued, but not decided.

Commonwealth *v.* Joseph Bean. S. J. C. *Liquor nuisance.* Exceptions S. C. Overruled.

Commonwealth *v.* Patrick Cunniff. S. J. C. *Murder.* Guilty of murder in second degree, and sentenced to State Prison for life.

UNITED STATES CIRCUIT COURT.

William F. Graham *v.* Boston, Hartford & Erie Railroad *et al.* Argued on demurrer. Sustained.

Henry A. Brassey *v.* New York & New England Railroad Company *et al.* *Petition for appointment of receiver.* Pending.

CASES

Requiring the Attorney-General's Official Supervision during the Year ending Jan. 21, 1885, though not conducted or argued by him.

Attorney-General *v.* City of Boston *et al.* S. J. C. *Bill in equity to enjoin sale of Commonwealth lands by tax collector.* Injunction issued.

Attorney-General *ex rel.* Mott *v.* Selectmen of Arlington. S. J. C. *Obstruction of a highway.* Pending.

Attorney-General *ex rel.* *v.* Eastern Railroad. S. J. C. *Information to enjoin the railroad against abandoning a station.* Refused.

Attorney-General *ex rel.* *v.* William B. Washburn *et al.* S. J. C. *Charitable Trust.* Pending.

Attorney-General *ex rel.* Board of Harbor and Land Commissioners *v.* Henry M. Whitney. S. J. C. *Information to enjoin building.* Refused.

Attorney-General *ex rel.* *v.* James O. Parker. S. J. C. *Trust.* Pending.

Attorney-General *ex rel.* *v.* Boston & Lowell Railroad. S. J. C. *Information to prevent obstruction of a street.* Pending.

Attorney-General *ex rel.* *v.* Old Colony Railroad. S. J. C. *Same.* Pending.

Attorney-General *ex rel.* Board of Harbor and Land Commissioners *v.* City of Boston, Boston Water Power Company, and Henry M. Whitney. S. J. C. *Information to prevent building.* Refused.

Attorney-General *ex rel.* *v.* Jamaica Pond Aqueduct Company. S. J. C. Argued on demurrer, and demurrer overruled.





